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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,863	12/01/2006	Christian Sauer	INA-41	4121
20311 7590 06/18/2009 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016				
EXAMINER				
AFZALI, SARANG				
ART UNIT		PAPER NUMBER		
3726				
NOTIFICATION DATE		DELIVERY MODE		
06/18/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@lmiplaw.com

Office Action Summary

Application No.

10/583,863

Applicant(s)

SAUER ET AL.

Examiner

SARANG AFZALI

Art Unit

3726

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 3/20/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on 3/20/2009 has been fully considered and made of record.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 rejected under 35 U.S.C. 102(b) as being anticipated by Yamashita et al. (JP 10122339 A).

As applied to claim 1, Yamashita et al. teach a plastic-sheathed roller comprising a wheel (Figs. 1 & 2) comprising an inner ring (20), and an outer ring (21) that are connected through radially oriented ribs (23) arranged spaced apart on a periphery and through a central web (22), said wheel being mounted for rotating through a rolling bearing (13) on a carrier element (14), while being supported through a running surface on a belt of the belt drive wherein the wheel is injected molded.

Yamashita et al. explicitly teach the structure of the claimed plastic-sheathed roller including an injected molded wheel on a roller bearing (13).

Regarding the limitation "injection gates for injection molding being arranged on a lateral surface between the inner ring and the outer ring, wherein the injection gates are

spaced apart angularly non-uniformly from one another", the patentability of product does not depend on its method of production. *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985) (citing *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969)). If a product in a product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product is made by a different process. *Id.* citing *In re Marosi*, 710 F.2d 799, 803, 218 USPQ 289, 292-93 (Fed. Cir. 1983); *Johnson & Johnson v. W.L. Gore*, 436 F. Supp. 704, 726, 195 USPQ 487, 506 (D. Del. 1977); see also *In re Fessmann*, 489 F.2d 742, 744, 180 USPQ 324, 326 (CCPA 1974). As such, Yamashita et al. teaches the structure of the claimed invention, irrespective of the numbers and locations of any injection gates used during the injection molding process.

As applied to claims 2-4, Yamashita et al. teach a plastic sheathed roller, wherein a rolling-bearing outer ring is injection-coated, on an outer surface and limited at both front ends, through the inner ring of the wheel (Figs. 1 & 2) irrespective of the numbers and locations of any injection gates.

Response to Arguments

4. Applicant's amendment to the specification (page 6 not page 2) is acknowledged.
5. Applicant's arguments, see "Remarks (pages 1 & 2), filed 3/20/2009, with respect to the rejection(s) of claim(s) 1-4 under 35 USC 103(a) unpatentable over Yamashita et al. in view of Terada et al. have been fully considered but are not are persuasive.

Applicant mainly argues that "the present invention has injection gates arranged between the inner and outer rings. As is shown in Figure 1 and 2, and described in the specification of the present invention (see p. 4, first paragraph under Detailed Description of the Drawings) the injection gates are arranged on the central web between the inner and outer ring. Prior art referenced by Examiner does not disclose any such configuration. Thus, even if Yamashita utilized a non-uniform distribution of injection gates as described in Terada, the placement of the injection gates would still be different from that of the present invention and individually or in combination, the prior art referenced does not disclose the present invention."

The Examiner respectfully disagrees with the above arguments.

Note that Yamashita et al. teach a well known injection molding method to produce a roller assembly including an injected resin molded belt pulley on a roller bearing. As such, Yamashita et al. explicitly teach the structure of the claim invention irrespective of the numbers and locations of the injection gates. Note that the Applicant is claiming an injected molded product and not a method or apparatus for making that product. As such, Yamashita et al. explicitly anticipates the claimed invention.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARANG AFZALI whose telephone number is (571)272-8412. The examiner can normally be reached on 7:00-3:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarang Afzali/
Examiner, Art Unit 3726
6/15/2009

/DAVID P. BRYANT/
Supervisory Patent Examiner, Art Unit 3726